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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

UNITED STATES OF AMERICA, Plaintiff, v. STEVEN VINCENT SANN, Defendant.	Cause No.: <u>CR 13-43-M-DLC</u> BRIEF IN SUPPORT OF <u>OPPOSED</u> MOTION TO CONTINUE SENTENCING HEARING
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STEVEN VINCENT SANN, by and through his counsel of record, submits this Brief in Support of his opposed Motion to Continue his sentencing hearing currently set for July 17, 2015.

INTRODUCTION AND FACTUAL BACKGROUND

Mr. Sann seeks an approximate 90 day continuance of his sentencing hearing so that he can get his personal and legal affairs in order prior to federal incarceration.

Sann has a number of legal issues pending that he hopes to resolve or move towards completion in the coming months. In addition to his criminal sentencing, Mr. Sann has two cases pending before this Court: (1) the Federal Trade Commission civil action, and (2) an appeal from a Chapter 7 conversion in bankruptcy court.

In other venues and areas, Mr. Sann has a pending appeal of a Montana Department of Revenue decision at the inter-department level of review. That appeal has been stayed pending the outcome of the bankruptcy case. Sann is also being audited by the Internal Revenue Service [IRS]. The IRS audit is being handled by a Missoula accounting firm.

Mr. Sann understands he will be going to prison after his sentencing hearing. In prison, it will be enormously difficult to assist his attorneys and accountants with the pending FTC litigation and bankruptcy appeal, and also to assist his accountants with the IRS

audit. Mr. Sann would like additional time—approximately 90 days—to seek finality to the extent possible in those matters.

LEGAL DISCUSSION

I. Sann's sentencing should be continued so that he may get his legal affairs in order prior to imprisonment.

A. Standards Applicable to a Motion to Continue Sentencing.

A sentence must generally be imposed without unnecessary delay, but a district court may continue a sentencing for good cause. F.R.Crim.P. 32(b). In determining good cause, district courts may consider all relevant factors, including (1) the timeliness of the request, (2) the length of delay requested, (3) the inconvenience to others, and (4) the reason for the continuance. *See Laurie Levenson, Federal Criminal Rules Handbook, 2015* pp. 435-436 (Thompson-West, 2014) (collecting and citing cases).

B. Sann contends there is good cause for a continuance.

The above factors justify continuing Sann's sentencing. First, Sann's sentencing is set down for July 17, 2015. He is not making this request on the eve of sentencing, but is making the request timely and well in advance of his sentencing.

Second, Sann is not requesting an open ended or extraordinarily lengthy delay of his sentencing, rather he seeks a 90 day continuance of the hearing to attempt to finalize his outstanding and complicated legal issues.

Third, a continuance poses virtually no inconvenience to the parties. Sann's final PSI has been drafted and reviewed, and Sann has no outstanding objections to the PSI that would affect the guideline calculations. Sann has no sentencing witnesses. Because there are no objections and the parties have reached an appropriate disposition Plea Agreement, it is presumed that the government will not have any sentencing witnesses who would be inconvenienced by a continuance. Sann understands that a continuance could inconvenience the Court's schedule, but notes that his sentencing hearing should be straightforward and shorter than most federal sentencing hearings.

Finally, Sann has compelling reasons for seeking a continuance. Sann seeks a continuance not to delay his inevitable prison sentence, but seeks a delay to get more time to try to resolve his myriad of outstanding legal issues. Pending before this Court are various motions related to the FTC civil action, as well as an appeal from bankruptcy court. Additionally, Sann is involved in a dispute with the Montana

Department of Revenue [presently stayed pending the outcome of the bankruptcy appeal and litigation] and is also being audited by the IRS. Sann is attempting to solve as many of these legal issues as possible before he is incarcerated as the outcome of some of them could affect whether he and his wife keep their marital home. While in prison it will be extraordinarily difficult for Sann to communicate with the lawyers and accountants assisting Sann on his pending legal issues. Sann has legitimate and compelling reasons for his continuance request.

CONCLUSION

The decision to continue a sentencing hearing is solely within the discretion of the District Court. Sann believes that good cause exists for a 90 day approximate continuance of the sentencing hearing, and respectfully requests that the Court continue the sentencing hearing.

Sann has been completely compliant with all pre-trial and probation conditions and has cooperated in the completion of the PSR. He is doing all he can to resolve his pending legal issues. He respectfully asks for more time to do so.

DATED THIS 1st day of July, 2015.

DATSOPoulos, MacDONALD & LIND, P.C.

By: /s/ Peter F. Lacny

Peter F. Lacny
Attorney for Defendant

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document is in compliance with the Local Rules for the District of Montana. The brief's line spacing is double spaced, the text is proportionately spaced with a 14-point font size, and the brief contains less than 6,500 words.

DATED THIS 1st day of July, 2015.

DATSOPoulos, MacDONALD & LIND, P.C.

By: /s/ Peter F. Lacny
Peter F. Lacny
Attorney for Defendant

CERTIFICATE OF SERVICE
L.R. 5.2(b)

I, Peter F. Lacny, attorney for Defendant, hereby certify that a copy of the Defendant's foregoing Brief in Support was served on these persons by the following means:

1,2 CM/ECF
 Hand Delivery
 Mail
 Overnight Delivery Service
 Fax
3 Email

1. Clerk, U.S. District Court;
2. Timothy J. Racicot, U.S. Attorney's Office;
3. Defendant, Steven Sann.

DATED THIS 1st day of July, 2015.

By: /s/ Peter F. Lacny
Peter F. Lacny
Attorney for Defendant